

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EDWARD MILLER,	:	CIVIL ACTION NO. 1:12-CV-00520
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
EUGENE BERDANIER, et al.,	:	
	:	
Defendants	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On March 21, 2012, Plaintiff Edward Miller, an inmate currently incarcerated at the Schuylkill County Prison in Pottsville, Pennsylvania, filed a complaint pursuant to the provisions of 42 U.S.C. § 1983. (Doc. 1.) Named as defendants are Eugene Berdanier, the warden of Schuylkill County Prison, and Ashley Mroczka and Deborah Wilson, D.O., two health care providers at the facility. In the complaint, plaintiff makes several allegations with respect to his medical care at Schuylkill County Prison.

Along with his complaint, plaintiff filed a motion for leave to proceed in forma pauperis. (Doc. 2.) By order dated April 4, 2012, the motion for leave to proceed in forma pauperis was granted and service of the complaint was directed upon the defendants named therein.¹ (Doc. 7.) Thereafter, on May 2, 2012,

¹ This case was originally assigned to the Honorable Sylvia H. Rambo. However, on June 20, 2012, Judge Rambo issued an order recusing herself from this action. (Doc. 20.) On that same date, the case was reassigned to the undersigned judge. (See Doc. 21.)

defendants Mroczka and Wilson filed a motion to dismiss the complaint. (Doc. 10.) Further, on June 20, 2012, defendant Berdanier filed a motion to dismiss or, in the alternative, for summary judgment. (Doc. 22.)

Prior to disposition of these motions, plaintiff filed the instant motion for leave to amend his complaint. (Doc. 26.) In his motion, plaintiff requests leave to amend the complaint in order to name an additional defendant and assert a claim of cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. (See id.) As the court is mindful of the fact that leave to amend should be freely given where justice so requires, see Fed. R. Civ. P. 15(a)(2), particularly with respect to pro se plaintiffs, the motion for leave to amend (Doc. 26) will be granted.

ACCORDINGLY, this 3rd day of July, 2012, it is hereby ORDERED that:

1. The motion for leave to amend the complaint (Doc. 26) is GRANTED. Plaintiff may file an amended complaint on or before August 2, 2012. Any amended complaint shall be complete in all respects. It shall be a new pleading which stands by itself as an adequate complaint without reference to the complaint already filed. Any amended complaint shall be titled as an amended complaint and shall contain the docket number of this case.
2. The motion to dismiss filed by defendants Mroczka and Wilson (Doc. 10) and the motion to dismiss or, in the alternative, for summary judgment filed by defendant Berdanier (Doc. 22) are DISMISSED without prejudice.
3. If plaintiff fails to file an amended complaint within the time period set forth herein, the motions to dismiss (Docs. 10 & 22) will be reinstated and addressed on the merits.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge